



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TE/GE EO EXAMINATIONS
1100 COMMERCE ST. MAIL STOP 4920 DAL
DALLAS, TEXAS 75242

501.03-00

March 6, 2012

Release Number: **201225017**
Release Date: 6/22/2012

LEGEND

ORG - Organization name
XX - Date Address - address

ORG
ADDRESS

Taxpayer Identification Number:
Person to Contact:
Employee Identification Number:
Contact Numbers:
(Phone)
(Fax)

CERTIFIED MAIL

Dear

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated September 13, 20XX, is hereby revoked and you are no longer exempt under section 501(a) of the Code effective December 31, 20XX.

The revocation of your exempt status was made for the following reason:

As a result of our examination of your activities and financial records for the years ending July 31, 20XX, 20XX, and 20XX, we have determined that your organization has ceased activity as of December 31, 20XX, and that there have been no operations or financial activities conducted or planned. As such, you fail to meet the operational requirements for continued exemption under IRC 501(c)(3)

Contributions to your organization are no longer deductible.

You are required to file income tax returns on Form 1120. If you have not already filed these returns and the examiner has not provided you instructions for converting your previously filed Form(s) 990 to Form(s) 1120, you should file these income tax returns with the appropriate Service Center for the tax years ending July 31, 20XX, and for all tax years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: United States Tax Court, the United States Court of Federal Claims, or the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed

before the 91st day after the date this determination was mailed to you if you wish to seek review of our determination. Please contact the clerk of the respective court for rules and the appropriate forms regarding filing petitions for declaratory judgment by referring to the enclosed Publication 892. Please note that the United States Tax Court is the only one of these courts where a declaratory judgment action can be pursued without the services of a lawyer. You may write to the courts at the following addresses:

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Nanette M. Downing
Director, EO Examinations

Enclosures:

Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*
Form 6018, *Consent to Proposed Action - Section 7428*
Return envelope

Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations
2303 West Meadowview Road
Suite 100; Mail Stop 39
Greensboro, NC 27407

Department of the Treasury

Date: January 4, 2012

Taxpayer Identification Number:
Form:
Tax Year(s) Ended:
Person to Contact/ID Number:
Contact Numbers:
Telephone:
Fax:

ORG
ADDRESS

Certified Mail – Return Receipt Requested

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final

revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended Dec. 31, 20XX, 20XX & 20XX	

LEGEND

ORG - Organization name XX - Date President - president

ISSUES:

Whether the tax-exempt status of ORG (the Organization) under IRC Section 501(a) as an organization described in IRC Section 501(c)(3) should be revoked due to lack of activity and excessive fund raising expenses?

FACTS:

The organization was founded in 20XX. At the time, the President, President, was a pastor dealing with family problems and counseling individuals regarding alcohol and spousal abuse. A common denominator with a lot of these individuals was a child with a handicap, disability or life threatening illness. The medical situation forced fathers to become workaholics and mothers to become caregivers causing a communication breakdown. Oftentimes, one parent would leave the relationship forcing the other to handle everything on their own.

The Organization was formed to assist these families and relieve some of the burden. The Organization tried to provide a benefit that would help the entire family. It was determined, with the family, what benefit was needed. The Organization has helped families in various ways including, but not limited to, providing vacations with trained nurses or aides to assist in the care of the child, handicapped accessible vans or other automobiles, transportation, financial assistance, housing assistance, computer systems, relocation assistance, therapies, exercise equipment or simply assistance in finding programs and services available to them.

At the peak of the Organization's activities (from the middle of 20XX through 20XX), ORG provided services to five or six families a month at a value of approximately \$ per family. The Organization provided services to families nationwide. When a request was received, the legitimacy of the illness was confirmed with a confidential letter to the child's physician. (Applicants must sign a release allowing the Organization to obtain this information.) The family was then scheduled for a personal visit. President traveled to each family that was being considered for benefits. During the personal visit, the problems that the family was facing were discussed and President, along with the family, determined what type of benefit would best meet the family's needs. The Organization's available funds as well as the number of families seeking assistance were considered before awarding a benefit.

The amount and extent of the Organization's activities has decreased steadily since 20XX and are currently non-existent. Although the decline in services is due largely to the fact that the organization has struggled with financing since 20XX, other factors have contributed to the decline as well. These factors include:

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- President has not received any compensation from the Organization since 20XX and has had to seek other employment. This makes it impossible for him to travel to meet with families requesting assistance.
- The entire Board of Directors has resigned.
- There is no longer any staff to take requests for services or to solicit families that may require assistance.
- The Organization does not have any operating funds.
 - Assets consist of approximately \$ in cash which will be used to cover the costs of closing down the Organization and a 1997 Buick LeSabre with 170,000 miles which will be sold (the receipts to be used for closing down the Organization.)

The Organization's primary source of income was direct public support. Fund-raising was primarily through outsourced telemarketing services. Telemarketing services include solicitation and caging (collecting donations and record keeping). Separate fees are paid by the Organization for each service and a brokerage fee is added to the cost when a broker is utilized. Fund-raising companies charge the Organization a fee of 75% to 90% of the total monies collected on behalf of the Organization. The fund-raising companies explain the high rates of fees are due to the expenses related to cold calling. Research shows that these fees are common to professional fund-raising. During 20XX, President tried to negotiate better terms with the fund-raising companies to no avail. He has since ended his contract with all fund-raising companies. Neither President nor the Board of Directors has the time to solicit funds on their own and, as such, the organization no longer has any significant source of revenue.

LAW:

Organizations described in IRC Section 501(c)(3) are corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals.

Federal Tax Regulations §1.501(c)(3)-1 states that an organization must be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.

Federal Tax Regulation §1.501(c)(3)-1(c)(1) further states that in order for an organization to be regarded as "operated exclusively" for one or more exempt purposes it must engage primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

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An organization described in IRC Section 170(b)(1)(A)(vi) normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption) from a governmental unit or from direct or indirect contributions from the general public.

Federal Tax Regulation §1.170A-9 states that an organization must be so organized and operated as to attract new and additional public or governmental support on a continuous basis. An organization will be considered to meet this requirement if it maintains a continuous and bona-fide program for solicitation of funds from the general public, community, or membership group involved, or if it carries on activities designed to attract support from governmental units or other organizations described in section 170(b)(1)(A)(i) through (vi).

TAXPAYER'S POSITION

The CEO and entire Board have tendered letters of resignation as it is believed that the Organization cannot continue to operate due to financial reasons. President, President can no longer justify the extraneous fees charged by the fund-raising companies and is not in a position to solicit donations without their services. He originally wanted to dissolve and terminate the Organization but cannot ensure the timely dissolution of the Organization and has signed Form 6018; Consent to Proposed Action – Section 7428, agreeing to the revocation.

GOVERNMENT'S POSITION:

It is the position of the government that the Organization no longer qualifies as an organization exempt under IRC Section 501(a) as an organization described in IRC Section 501(c)(3).

The fact that the Organization consistently applies less than 15% of its annual revenues to charitable purposes shows that the Organization is no longer primarily operated for an exempt purpose.

The Organization previously received a substantial part of its support from contributions from the general public but is no longer able to attract new and additional support on a continual basis.

In determining whether an organization maintains a continuous and bona fide program for solicitation of funds from the general public or community, consideration will be given to whether the scope of its fund-raising activities is reasonable in light of its charitable activities. The Organization's fund-raising activities are not reasonable as more than 85% of the Organization's annual revenues are devoted to fund-raising expenses. President has indicated that he has nullified all contracts with fund-raising companies due to the excessive fees and that he does not have the time necessary to devote to fund-raising purposes.

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The Organization has provided only an insignificant amount of services to families since 20XX, is currently not performing any exempt activities and does not intend to reinitiate any exempt activities in the future.

CONCLUSION:

The Organization's exempt status will be revoked effective December 31, 20XX.